

AN ORDINANCE

BY COUNCILMEMBER MARY NORWOOD

**AMENDING THE CITY OF ATLANTA'S CODE OF
ORDINANCES BY INSERTING LANGUAGE IN THE
SOLID WASTE SECTION THAT WILL
EFFECTIVELY DEAL WITH LITTER VIOLATORS;
AND FOR OTHER PURPOSES.**

WHEREAS, The City of Atlanta has determined that control and removal of litter from public and private property is an important part of preventing urban blight; and

WHEREAS, The City of Atlanta has determined that prevention of blight may reduce occurrences of vandalism and graffiti and other incidents of property damage whose remedy requires significant commitment of public resources; and

WHEREAS, The City of Atlanta has determined that unsolicited handbills that are placed on private property and vehicles in public places contribute to litter when such handbills are blown into the streets and onto lawns and not retrieved; and

WHEREAS, The City of Atlanta has determined that an accumulation of handbills in lawns and around residences may indicate to burglars or vandals that the residence is unoccupied and therefore contribute to increased crime; and

WHEREAS, litter deposited on public and private property, roads, streets and highways is a significant contributor to the pollutants found in storm water runoff; and

WHEREAS, The City of Atlanta has determined that runoff of water from roads, highways and public and private property into streams can pollute said streams, degrade water quality and harm water users; and

WHEREAS, The City of Atlanta has determined that pollutants carried into our streams, rivers and lakes by litter may poison aquatic resources and diminish the quality of our water and its aquatic resources; and

WHEREAS, The City of Atlanta has determined that control of litter is essential to prevent the spread of disease and to protect the public health, safety, welfare and environment; and

WHEREAS, The City of Atlanta operates a storm water discharge system pursuant to a National Pollutant Discharge Elimination System Permit, which permit requires aggressive measures to curtail discharge of pollutants in storm water into surface waters within the County to achieve the purpose of fishable and swimmable waters; and

WHEREAS, The City of Atlanta has determined that control of litter is essential to prevent the spread of disease and to protect the public health, safety, welfare and environment; and

WHEREAS, litter control ordinances provide a prohibition against littering and provide an enforcement mechanism with penalties for dealing with those found littering and establish a legal mechanism to advance the police power goals identified herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA as follows:

The Code of Ordinances is amended by inserting the following language in the appropriate section.

Section 1. General Provisions

1.1. Purpose and Intent

The purpose of this ordinance is to provide for the public health, safety, and general welfare through the regulation and prevention of litter. The objectives of this ordinance are:

- (1) Provide for uniform prohibition throughout the City of Atlanta of any and all littering on public or private property;
- (2) Prevent the desecration of the beauty and quality of life of the City of Atlanta and prevent harm to the public health, safety, and general welfare, including the potential degradation of water and aquatic resources caused by litter.

1.2. Applicability

This ordinance shall apply to all public and private property within the City of Atlanta.

1.3. Compatibility with Other Regulations

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

1.4. Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

Section 2. Definitions

“Litter” means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and, glass containers, broken glass, dead animals, or intentionally or unintentionally discarded materials of every kind and description which are not "waste" as such term is defined in O.C.G.A., §16-7-51, paragraph 6.

“Property open to the public” means the right of way of any road or highway; any body of water or watercourse or the shores or beaches thereof; waterways and drainage systems, any park, playground, building, refuge, or conservation or recreation area; timberlands, or forests, and residential, commercial, or industrial, properties.

“Private property” means any dwelling house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or vacant,

and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling house, building or other structure.

“Handbill” means” any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet, flyer or any other printed or otherwise reproduced original or copies of any matter of literature which:

(1) Advertises for sale any merchandise, product, commodity, service, business, opportunity or thing; or

(2) Directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged; or

While containing reading matter other than advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and economic gain of any person so engaged as advertiser or distributor;

Section 3. Prohibition Against Littering Public or Private Property

3.1 Public or Private Property

It shall be unlawful for any person or persons to throw, dump, sweep, push, blow, deposit, or , leave, or to cause or permit the throwing, dumping, sweeping, pushing, blowing, depositing, or leaving of litter on any public or private property in the City of Atlanta or any waters in the City of Atlanta unless:

B. The property is designated by the State or by any of its agencies or political subdivisions for the disposal of such litter and such person is authorized by the proper public authority to use such property;

C. The litter is placed into a receptacle or container installed on such property; or

D. The person is the owner or tenant in lawful possession of such property, or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

3.2 Waterways and Stormwater Drainage Systems

A. It shall be unlawful for any person or persons to throw, dump, sweep, push, blow, deposit, leave, or to cause or permit the throwing, dumping, sweeping, pushing, blowing, depositing, or leaving of litter in any public or private gutter, street, right of way, waterway, or storm water collection system within the City of Atlanta; and

B. It shall be unlawful for any person or persons to dump raw human waste or waste water of any sort, used motor oil, and any other contaminated liquid into any public right of way, waterway, or storm water collection system within the City of Atlanta. This includes dumping from any train, aircraft, motor vehicle, or vessel, unless otherwise authorized by law.

3.3 Distribution of handbills and unsolicited newspapers

A. Property open to the public

It shall be unlawful for any person or persons to throw, deposit, leave, place, or to cause or permit the throwing, depositing, leaving, or placing of any commercial or noncommercial handbill on any public property within the City of Atlanta; and

B. Private property

No person shall throw, deposit, leave, place or cause or permit the throwing, depositing, leaving or placing of any handbill, upon any private property which is vacant and which could be reasonably ascertained to be vacant. Unless requested not to place handbills on a private property, such handbill may be placed or deposited on inhabited private property if such handbill is placed or deposited in a manner that is reasonably designed to secure or prevent such handbill from being blown or drifted about such private property or property open to the public, including streets, storm water catch basins and conveyance systems and other public places.

C. It shall be unlawful for any person or persons to deposit or leave, or to cause or permit the depositing or placing of any commercial or noncommercial handbill or unsolicited newspaper on any vehicle within the City of Atlanta.

D. Nothing in this Ordinance authorizes placing handbills in mailboxes when such use is prohibited by federal law or by postal regulations

Section 4. Provision of Litter Receptacles & Maintenance

4.1 Provision of Receptacles

To facilitate the proper disposal of litter, commercial businesses and institutions that are patronized by the public shall provide clean, well-maintained litter receptacles that are regularly emptied and accessible to the public. The types of businesses and institutions required to meet this provision include but are not limited to, fast-food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, motels, hospitals, schools, government facilities, public transportation facilities, and colleges.

4.2 Placing Materials into Receptacles or Containers

A person or persons placing litter, including household garbage and recyclables, in public receptacles or in authorized private receptacles, shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any public or private property.

4.3 Maintenance of Receptacles or Containers

All litter, solid waste, and recyclable receptacles or containers shall be well maintained, and serviced regularly.

Section 5. Vehicle Loads Causing Litter

No person shall operate any motor vehicle, boat, airplane, or other conveyance with a load, on or in such conveyance, unless the Load, on or in such conveyance, is adequately secured to prevent the dropping or shifting of such load onto the ground or roadway.

Section 6. Violations, Enforcement and Penalties

6.1 Violations

It shall be unlawful for any person to violate any provision, or fail to comply with any of the requirements, of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.

6.2 Evidence

1. Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this ordinance, it shall be prima facie evidence that the operator of the conveyance has violated this ordinance.
2. Except as provided in subsection (1), whenever any litter which is dumped, deposited, thrown, or left on public or private property in violation of this ordinance is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writing which display the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this ordinance.

6.3 Penalties

Any person who violates this ordinance shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:

1. By a fine of not less than \$200 and not more than \$1,200; and
2. In addition to the fine set out in subsection 1 above, the violator shall reimburse the City of Atlanta for the reasonable cost of removing the litter when the litter is, or is ordered, removed by the City of Atlanta; and
3. Court mandated litter cleanup
 - A. In the sound discretion of the court, the person may be directed to pick up and remove from any public street or highway or public right of way, for a distance not to exceed one mile, any litter he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or
 - B. In the sound discretion of the court, the person may be directed—or provide remuneration for homeless persons—to pick up and remove any and all litter from any public property, private right-of-way, or with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that he has deposited litter. Pick up and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of the sentence.
4. The court may publish the names of persons convicted of violating this ordinance.

6.4 Enforcement

All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article.